

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA**

Red River Bancshares, Inc.	§	Civil Action No. 5:17-CV-01370
Red River Bank, LSCB	§	
	§	
Plaintiffs,	§	
	§	Judge Maurice Hicks, Jr.
v.	§	
	§	
	§	
	§	Magistrate Judge Mark L. Hornsby
Red River Employees Federal Credit Union	§	
	§	
Defendant	§	
	§	Demand For Jury Trial

Second Amended Complaint for Trademark Infringement and Unfair Competition

For their complaint, Plaintiffs, Red River Bancshares, Inc. and Red River Bank, LSCB, by and through their undersigned attorneys, allege as follows:

The Parties

1. Red River Bancshares, Inc. ("Bancshares") is a corporation organized under the laws of the State of Louisiana, with its principle place of business in Alexandria, Louisiana.
2. Red River Bank, LSCB ("RRB") is a Louisiana State Chartered Bank with its principle place of business in Alexandria, Louisiana.
3. Red River Employees Federal Credit Union ("The Credit Union") is a federal credit union, organized and operated under the Federal Credit Union Act, 12 U.S.C. § 1251, *et seq.* with its principle place of business in Texarkana, Texas.

Jurisdiction and Venue

4. Jurisdiction is proper in this court because this litigation arises under the federal laws of the United States, namely, 15 U.S.C. § 1051 *et seq.* (Lanham Act). The Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 (federal question), 1338(a) (trademarks), and 1338(b) (unfair competition).
5. The Court has personal jurisdiction over The Credit Union because the Credit Union is doing business in Louisiana and particularly within the Western District of Louisiana.

6. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c).

Factual Background

7. RRB, a wholly owned subsidiary of Bancshares, is the exclusive licensee of Bancshares for the name and service mark RED RIVER BANK (Exhibit D).

8. Since at least 1999, Bancshares, through its exclusive licensee and wholly owned subsidiary, RRB, has used the service mark RED RIVER BANK in connection with banking services and financial services, namely, commercial lending, mortgage lending, home equity lending, consumer lending and consumer financing, securities brokerage, insurance brokerage, investment of funds for others, financial planning, fiduciary representative services, and cash management (collectively “Banking Services”).

9. Bancshares, through its exclusive licensee and wholly owned subsidiary, RRB, has used and is using the service mark RED RIVER BANK extensively in Louisiana in connection with the provision of Banking Services.

10. As a result of Bancshares’ ongoing use, through its exclusive licensee, RRB, of the name and service mark, RED RIVER BANK, the RED RIVER BANK name and service mark have become associated with Bancshares and its exclusive licensee, RRB, by consumers in Louisiana, and particularly consumers in Caddo and Bossier Parishes.

11. Bancshares is the owner of United States Trademark Registration No. 2,418,600 for The Red River Logo:



(“The Red River Logo Registration,” Exhibit A).

12. The application that matured into United States Trademark Registration No. 2,418,600 was filed on August 20, 1998, and issued on January 9, 2001.

13. United States Trademark Registration No. 2,418,600 has been accorded the benefit of incontestable status pursuant to 15 U.S.C. § 1065 since September 13, 2006.

14. Bancshares is the owner of United States Trademark Registration No. 4,586,878 for the service mark, RED RIVER BANK, for use with Banking Services (Exhibit B).

15. The application that matured into United States Trademark Registration No. 4,586,878 was filed on March 26, 2013, and issued on August 19, 2014.

16. Bancshares is the owner of a Louisiana State Trademark Registration for “Red River Bank and Logo Consisting of a Curved White Stripe Transiting a Dark Square Suggesting a Stylized Letter ‘R’” in connection with “Banking and Financial Services.” (Exhibit C).

17. The Credit Union has been providing credit union services, since prior to the Bank’s formation, in and around Texarkana, Texas, and Texarkana, Arkansas.

18. At some time well after its formation, The Credit Union adopted the following logo:



(“The Credit Union Logo”). Upon information and belief, The Credit Union Logo with the abstract version of a river was first adopted by The Credit Union Sometime after 2008.

19. Prior to October 2, 2017, The Credit Union did not provide services in Louisiana in general or in Caddo and Bossier Parishes in particular under the RED RIVER EMPLOYEES FEDERAL CREDIT UNION or the RED RIVER CREDIT UNION service marks or under The Credit Union Logo.

20. On October 2, 2017, The Credit Union purchased the branches of the now liquidated Shreveport Federal Credit Union, including branches in Caddo, Bossier, Morehouse and Lincoln Parishes in Louisiana and Panola and Coahoma Counties in Mississippi.

21. Since October 2, 2017, The Credit Union has been operating credit union branches in Louisiana and Mississippi, including particularly branches in Bossier and Caddo Parishes in Louisiana.

22. Prior to October 2, 2017, The Credit Union and RRB coexisted in their respective

trade areas without generating any substantial confusion among their members, customers, or the general public.

23. The Credit Union provides credit union services to its members.

24. The Credit Union's services overlap with the Banking Services RRB provides to its customers.

25. Since October 2, 2017, The Credit Union has targeted members and potential members in geographical areas in Louisiana served by RRB.

26. Upon information and believe, since October 2, 2017, The Credit Union has used the RED RIVER EMPLOYEES FEDERAL CREDIT UNION and the RED RIVER CREDIT UNION service marks and The Credit Union Logo in connection with credit union services in Louisiana in general, and in Caddo and Bossier Parishes in particular.

27. Since October 2, 2017, The Credit Union and RRB have been direct competitors in Caddo and Bossier Parishes.

28. Upon information and belief, on October 2, 2017, when The Credit Union began using the RED RIVER EMPLOYEES FEDERAL CREDIT UNION and the RED RIVER CREDIT UNION service marks and The Credit Union Logo in connection with credit union services in Louisiana, The Credit Union was aware of Bancshares' and/or its exclusive licensee's long standing use of RED RIVER BANK in connection with Banking Services in Louisiana.

Count One - Trademark Infringement (Section 32 of Lanham Act)

29. The allegations of paragraphs 1-28 are re-averred.

30. Bancshares owns valid service mark rights in the name and mark RED RIVER BANK and The Red River Logo as evidenced by federal trademark registration numbers 2,418,600 and 4,586,878 (Exhibits A and B).

31. The Credit Union's use of the service marks, RED RIVER EMPLOYEES FEDERAL CREDIT UNION and RED RIVER CREDIT UNION, and The Credit Union Logo and variations of the foregoing, in connection with its credit union services outside of its original trade area, are colorable imitations of the registered The Red River Logo and/or the registered service mark, RED RIVER BANK, and likely to cause confusion, mistake or deceive; and further have applied colorable imitations of the registered The Red River Logo and/or the registered

service mark, RED RIVER BANK to advertisements used in commerce upon or in connection with the sale or offering for sale of services on or in connection with such use that is likely to cause confusion, or to cause mistake, or to deceive, such as with affiliation, connection, association, origin, sponsorship, or approval by Bancshares and/or RRB, in violation of Section 32 of the Lanham Act. 15 U.S.C. § 1114, and has caused actual confusion with same.

32. The Credit Union's use of the service marks, RED RIVER EMPLOYEES FEDERAL CREDIT UNION and RED RIVER CREDIT UNION, and The Credit Union Logo and variations of the foregoing in connection with its credit union services in Louisiana, Mississippi, and most especially in Bossier and Caddo Parishes, is likely to cause confusion as to affiliation, connection, association, origin, sponsorship, or approval by Bancshares and/or RRB, and has caused actual confusion, all of which being in violation of Section 32 of the Lanham Act. 15 U.S.C. § 1114.

33. Furthermore, The Credit Union's use of the service marks, RED RIVER EMPLOYEES FEDERAL CREDIT UNION and RED RIVER CREDIT UNION, and The Credit Union Logo, and variations of the foregoing in connection with its credit union services in Bossier and Caddo Parishes has caused actual confusion: For example, RRB has received numerous inquiries from members of Shreveport Federal Credit Union and the community at large regarding their belief that RRB has taken over Shreveport Federal Credit Union.

Count Two - Unfair Competition (Section 43(a) of Lanham Act)

34. The allegations of paragraphs 1-33 are re-averred.

35. Bancshares owns service mark rights in the names and marks, RED RIVER BANK and The Red River Logo, by virtue of Bancshares' long use, through its exclusive licensee and wholly owned subsidiary, RRB, of the names and marks, RED RIVER BANK and The Red River Logo, in Louisiana, and especially in Caddo and Bossier Parishes.

36. The Credit Union's use of the service marks, RED RIVER EMPLOYEES FEDERAL CREDIT UNION and RED RIVER CREDIT UNION, and The Credit Union Logo and variations of the foregoing, in connection with its credit union services in Louisiana, and most especially in Bossier and Caddo Parishes, is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with Bancshares

and/or RRB, or as to the origin, sponsorship, or approval of the Credit Union's services, or commercial activities by Bancshares and/or RRB damaging both Bancshares and RRB, and has caused actual confusion, all of which being in violation of Section 43(a) of the Lanham Act. 15 U.S.C. § 1125(a).

Count Three - Louisiana Trademark Infringement (La. R.S. 51:211, et seq.)

37. The allegations of paragraphs 1-36 are re-averred.

38. Bancshares owns valid Louisiana service mark rights in the name and mark RED RIVER BANK and Logo (Exhibit C).

39. The Credit Union's use of the service marks, RED RIVER EMPLOYEES FEDERAL CREDIT UNION and RED RIVER CREDIT UNION, and The Credit Union Logo and variations of the foregoing in connection with its credit union services in Louisiana, and most especially in Bossier and Caddo Parishes, is likely to cause confusion as to affiliation, connection, association, origin, sponsorship, or approval by Bancshares and/or RRB, and has caused actual confusion, all of which being in violation of Louisiana Revised Statute § 51:222.

Prayer for Relief

WHEREFORE, Bankshares and RRB respectfully request that this Court:

1. Award Bancshares and RRB their damages and costs in this action;
2. Award Bancshares and RRB an accounting of The Credit Union's profits from The Credit Union's use, in Louisiana and Mississippi, of the RED RIVER EMPLOYEES FEDERAL CREDIT UNION and RED RIVER CREDIT UNION, and The Credit Union Logo and variations thereof;
3. Award Bancshares and RRB their reasonable attorney fees incurred in pursuing this action;
4. Award Bancshares and RRB three times the actual damages sustained by Bancshares and RRB;
5. Preliminarily enjoin The Credit Union from further use, outside of The Credit Union's original market area, of RED RIVER EMPLOYEES FEDERAL CREDIT UNION, RED RIVER CREDIT UNION, and The Credit Union Logo and confusingly similar variants thereof;
6. Permanently enjoin The Credit Union from further use, outside of The Credit

Union's original market area, of RED RIVER EMPLOYEES FEDERAL CREDIT UNION, RED RIVER CREDIT UNION, and The Credit Union Logo and confusingly similar variants thereof; and

7. Enter such other further relief to which Bancshares, RRB, or either of them may be entitled as a matter of law or equity, or which the Court determines to be just and proper.

Jury Demand

Pursuant to Fed. R. Civ. P. 38, Bancshares and RRB hereby requests a trial by jury of all issues so triable.

October 18, 2018

Respectfully submitted,

/BrettNorth#22503/

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